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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,421	07/29/2003	Thomas Robert Maier	DN2003120	6009

27280 7590 10/06/2005

THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER

MCCLENDON, SANZA L

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,421

Applicant(s)

MAIER ET AL.

Examiner

Sanza L. McClendon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7-9 and 13 is/are rejected.
- 7) ☒ Claim(s) 2-3, 6, 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Allowable Subject Matter

1. Applicant is advised that the Notice of Allowance mailed June 1, 2005 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 1 and 4, the phrase "optionally" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention, since there is a specific amount of optional component (E) the processing oil (i.e., 10 to about 40). If said components are optional should not the lower limit be zero phr. Clarification is requested.

Claim Rejections - 35 USC § 102/35 USC § 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 5, 7-9 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shichman et al (3,965,055) as evidenced by Halasa et al (5,627,237)

Shichman et al teaches using microwave energy with a frequency range of 10^9 to 10^{10} cycles/second (1000 to 10,000 MHz) to preheat a rubber composition to a temperature of about 40 °C before curing. Said rubber composition is a blend of a rubber and a thermoplastic resin. Said thermoplastic resin has a melting point of about 250 OF or greater, which is deemed to anticipate a Tm or Tg of at least 0 OC. Said rubbers can be found in columns 3-4. Said thermoplastic resins

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can be found in columns 5-6. Shichman et al teaches said rubber blends can have additives, such as curatives (sulfur and etc), fillers, pigments, and others—see column 7, lines 23-45. Said fillers include carbon black, silica, clays and the like. Said rubber blends can be used to make a variety of articles, such as curing bags, hoses, belts, pneumatic tiers, rubber mountings and others—see column 8, lines 39-41. Said rubber blends can be vulcanized by a variety of methods such as molding, injections curing, and others. Said articles made from such as rubber compositions can be fabricated using a calendaring, molding, and extrusion operations. Shichman et al does not expressly teach the claimed filler amounts as found in the instant claims, however the examiner deems that those listed amounts are well known in the art of making tire treads as can be seen in Halasa et al in column 12, lines 35-55. In addition, processing oils can be found in Shichman et al per the examples, for instance see tables 20-24. It is noted that Shichman et al does not expressly teach the methods of making pneumatic tires as outlined in the claims, however the examiner deems that this method is generic and the patentable distinction is the rubber composition used in said process and said rubber composition appears to be anticipated by Shichman et al, which also teaches said rubber composition (Shichman's composition) is useful in making tires, therefore the method appear to be read in the reference.

EXAMINER'S AMENDMENT

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Henry Young, Jr. on May 26, 2005.

The application has been amended as follows:

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Please cancel claims 14-20 without prejudice.

Allowable Subject Matter

9. Claims 2-4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach the specific polymers and/or elastomers of claims 2-4 and 6 in a method as found in instant claim 1. Additionally claims 10-12 are not found in a method according to instant claim 4.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanza L. McClendon whose telephone number is (571) 272-1074. The examiner can normally be reached on Monday through Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sandra L. McClendon

Examiner

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